

Appl. No.: 10/669,980  
Amdt. dated 12/12/2005  
Reply to Office action of 10/20/2005

### REMARKS/ARGUMENTS

As described below, Claims 1, 13, 16, and 23 have been amended to clarify the invention without raising new issues. In particular, Claim 13 has been amended to include the term "resistive" after the term ballistic. Since the term "ballistic layer" was originally included in claim 13 it supports the conclusion that the amendments to Claims 1, 13, and 16 do not raise new issues. It should be noted, that the term "ballistic layer" in Claim 13 originally lacked antecedent basis and was not considered by the Examiner in evaluating the patentability of the claimed invention. However, indefinite limitations should be considered when evaluating patentability. As such, the amendments should be substantively considered at this juncture and the pending rejection should be overcome. Based on the foregoing amendments and the following remarks, Applicant respectfully requests reconsideration of the present application and allowance of the pending set of claims.

Claims 1-6, 8-13, and 16-25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of US Patent No. 6,187,411 to Palmer and U.S. Patent No. 6,500,507 to Fisher. Claims 7, 9, 14, and 15 have been rejected under 5 U.S.C. § 103(a) as being unpatentable over the combination of Palmer, Fisher, and U.S. Patent No. 3,381,420 to Brink et al.

Fisher is directed to a blast or impact resistant material wherein a flexible fabric layer is disposed underneath a layer of impact resistant tiles. Fisher repeatedly stresses that the fabric layer is "non-ballistic". For example, at column 4, lines 37-39 Fisher states that "[s]uitable materials for the flexible material layer 4 include any material having the properties of high resistance to local deformation, but by itself having non-ballistic properties." Additionally, the flexible fabric layer of Fisher is not an outer layer, but rather, is disposed opposite the impact resistance tile. As a result, the fabric layer in Fisher does not provide impact resistance to the composite.

As discussed in Applicant's previous response, Palmer describes a panel having an improved tolerance for damage caused by impacts from a foreign object. The panels described in Palmer have a foam core that is sandwiched between a pair of skins comprising a fibrous material, such as glass, boron, carbon, Kevlar, etc. Stitching is used to attach the skins to the

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core. Palmer describes a foam core that is preferably non-porous and that is relatively non-compressible.

To further clarify the claimed invention, Claims 1, 16, and 23 have been amended to include the recitation that the first fabric layer comprises a ballistic resistant material. Support for this amendment is found on pages 7 and 10 of the specification. A laminate having an outer fabric layer that is ballistic resistant is neither disclosed nor suggested by cited references. In sharp contrast, Fisher specifically states that its fabric layer is non-ballistic.

The Claimed invention is patentable over the cited references for at least the following reasons: 1) the references do not provide motivation to modify the art as suggested by the inventor; 2) the references teach away from such a modification; 3) as modified, the panel described in Palmer would be unsatisfactory for its intended purpose; and 4) the combination of Palmer and Fisher fail to teach or suggest the invention. To combine references, there must be some motivation to combine the references, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. There is no motivation to combine the fabric layer described in Fisher with the panel described in Palmer. Fisher states that the fabric layer can have a variety of structures including a honeycomb structure. However, there is no disclosure or suggestion in Fisher that the honeycomb structure provides any benefit, let-alone impact absorbance. Accordingly, there is no suggestion in Fisher that would motivate one of ordinary skill in the art to select the honeycombed fabric layer of Fisher in the outer skin of Palmer. At best, the only motivation to combine the honeycomb structure with the panel of Palmer comes from Applicant's own teachings, which is impermissible.

The Examiner alleges that one of ordinary skill in the art would be motivated to combine the fabric layer in Fisher with the outer skins of Palmer by the desire to create an impact resistant composite. However, a correct reading of Fisher clearly shows that the fabric layer described in Palmer lacks the desired impact resistance and, in fact, Fisher specifically describes the fabric layer as non-ballistic. Additionally, the fabric layer in Fisher is not an impact absorbing surface and is actually disposed below a layer of impact absorbing tiles. As a result, one of ordinary skill would not be motivated to use the fabric layer described in Fisher in an impact absorbing skin because such a "non-ballistic" outer skin would not have the desired impact absorbing properties.

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At best, Fisher actually teaches away from such a combination because it describes the fabric layer as "non-ballistic."

Moreover, modifying Palmer as suggested by the Examiner would render the panel described in Palmer unsatisfactory for its intended purpose. As discussed above, Palmer is directed to an impact absorbing panel wherein the outer skins are configured to receive impacts from foreign objects. In sharp contrast, the fabric layer described in Fisher is "non-ballistic" and is not configured to provide impact resistance. As a result, the fabric layer described in Fisher would not impart the desired impact absorbing properties to the panel of Palmer.

Even if combined, the combination of Palmer and Fisher fail to disclose or suggest the claimed invention. Specifically, none of the cited references disclose or suggest an insulation which is resistant to ballistic impact and that includes a ballistic resistant polymeric fabric. Thus, the claimed invention is patentable over the cited references because the references fail to teach a structure having a ballistic resistant fabric polymeric fabric.

Because there is no teaching or motivation, within the references or the art, to combine the disclosure of Palmer with that of Fisher, with or without the teachings of Brink, and even as combined the references fail to teach the claimed invention, the Office has failed to establish a *prima facie* case of obviousness and the pending rejections under 35 U.S.C. §103 should be withdrawn.

#### Conclusion

In view of the amendments and remarks made above, Applicant submits that the pending claims are now in condition for allowance. Applicant respectfully requests that the claims be allowed to issue. If the Examiner wishes to discuss the application or the comments herein, the Examiner is urged to contact the undersigned by telephone.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required

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therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit  
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Respectfully submitted,



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Date